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Introduction

1. Human rights online, including the right to privacy and the right to freedom of opinion and expression online, are crucial issues in Lebanon and must be reflected in the recommendations made during the third cycle of the UPR in Jan-Feb 2021.
2. In the second UPR cycle, Lebanon received 257 recommendations from 93 countries, only one of these recommendations related to freedom of expression, and it did not explicitly reference the importance of freedom of expression online. Lebanon did not support this recommendation.
3. 78.0% of individuals in Lebanon use the internet, which is well above the regional and global average of 48.5%. In this context of widespread online connectivity, it is increasingly important that UPR recommendations made to Lebanon explicitly reflect the need for the right to freedom of opinion and expression and the right to privacy to be protected online as well as offline, in line with Lebanon's obligations under Articles 17 and 19 of the International Covenant on Civil and Political Rights (ICCPR).

Updates since the previous review

4. Since the second cycle review, the number of individuals online in Lebanon has continued to grow. At the time of the second UPR review in 2015, 53.5 in every 100 inhabitants had a mobile broadband subscription, but by 2018, the most recent year ITU data is available for, the figure had reached 60.9 in every 100.¹
5. The state of freedom of expression online has declined since Lebanon's previous review. From 2015 to 2019, Lebanon's Freedom on the Net score declined from 45² to 52³. In recent years Lebanon has cracked down on freedom of expression online, especially freedom of speech that criticises politicians or influential public figures. Through Muhal,⁴ an online database tracking detentions related to freedom of expression online, SMEX documented 65 cases in 2019, compared to 36 in 2018 and just 12 in 2017. SMEX has already documented 14 cases as of March 20, 2020.

¹ ITU, 2019, Measuring the Internet Society 2018, 'Lebanon', <https://www.itu.int/en/ITU-D/Statistics/Documents/publications/misr2018/MISR-2018-Vol-2-E.pdf>

² Freedom House, Freedom on the Net 2015, 'Lebanon', https://freedomhouse.org/sites/default/files/FH_FOTN_2015Report.pdf

³ Freedom House, Freedom on the Net 2019, 'Lebanon', <https://freedomhouse.org/country/lebanon/freedom-net/2019>

⁴ Muhal Observatory for Free Expression, Database, <https://muhal.org/>



6. The legal system in Lebanon facilitates the repression of freedom of expression online. While The Constitution nominally protects the right to freedom of expression, both the Penal Code and the Publications Law have penalties for defamation, libel, contempt, and blasphemy. Of these, the Penal Code contains much harsher penalties.⁵
7. In 2016, the Cassation Court ruled that the Penal Code applies to social media content. In practice, this ruling has led the authorities to apply the Penal Code to social media posts from journalists as well.⁶
8. By using the Penal Code to charge citizens and journalists, the authorities – including the controversial Anti-Cybercrime and Intellectual Property Bureau (Cybercrime Bureau) – are empowered to intimidate activists and journalists with harsher sentences during pretrial detentions. Human Rights Watch reported that “between January 2015 and May 2019, the Cybercrimes Bureau investigated 3,599 cases relating to defamation, libel, and slander,” 185 of which were “initiated by public officials.”⁷
9. The use of pretrial detentions is only “permissible in Lebanon for offenses that are punishable by more than one-year imprisonment” and discouraged by international law, according to Human Rights Watch.⁸ Although these cases rarely end up in court, the general prosecutor and the security agencies use pretrial detentions to force detainees to delete content or pledge to refrain from posting similar criticisms. Since the start of the October 2019 protests, at least three individuals have refused to sign a pledge in the presence of their lawyers because it is illegal. This continued practice fosters an environment of self-censorship.
10. Lebanon limits the right to access information and has censored content at the expense of marginalized populations. The Lebanese Parliament adopted the Right to Access Information Law in February 2017,⁹ but government agencies are not implementing it, and a culture of secrecy continues to dominate the public sector. Article 5 of this law also violates the international standards set out in the UN Special Rapporteur Report to the UN Economic and Social Council in 2000, by restricting access to certain information, including information related to national security, foreign relations, professional and commercial secrets protected by law, and information that “undermines the state’s

⁵ SMEX, 27/11/2019, ‘New Report: ”Analyzing Freedom of Expression in Lebanon in 2018”’, <https://smex.org/new-report-analyzing-freedom-of-expression-in-lebanon-in-2018-2/>

⁶ Ibid.

⁷ Human Rights Watch, 15/11/2019, ‘Lebanon: Defamation Laws Used to Silence Critics’, <https://www.hrw.org/news/2019/11/15/lebanon-defamation-laws-used-silence-critics>

⁸ Human Rights Watch, 15/11/2019, “‘There Is a Price to Pay’”
The Criminalization of Peaceful Speech in Lebanon
, <https://www.hrw.org/report/2019/11/15/there-price-pay/criminalization-peaceful-speech-lebanon>

⁹ Transparency Lebanon, 2017, ‘Right to Access Information Law’, http://transparency-lebanon.org/Modules/PressRoom/News/UploadFile/4811_Ar_20,01,YYAti-law.pdf



economic interests¹⁰

11. The Electronic Transactions and Personal Data Law (E-Transactions Law) adopted by parliament in 2018¹¹ does not adequately protect digital privacy. Guidelines for corporations and institutions are vague and the law does not provide effective oversight for state agencies.
12. Since the Lebanese Uprising began in October 2019, the security agencies have continued the practice of seizing devices of detainees, sometimes holding them overnight. Moreover, the security agencies have also been accused of infiltrating WhatsApp groups to identify protesters.¹²
13. The main barrier to access in Lebanon is the cost of internet services. Lebanon has very expensive communication services. The government owns Alfa and Touch, the only two telecommunications companies, and OGERO, the state's fixed-line provider, controls a monopoly over internet services in the country. Lebanon ranks fourth most expensive in the Middle East and North Africa in terms of mobile internet, behind only Saudi Arabia, the United Arab Emirates, and Yemen.¹³

Freedom of Expression and Opinion

14. As one of the 51 founding member states of the United Nations, Lebanon has signed a number of treaties that uphold the right to freedom of expression. Most notably, Article 19 of the 1948 Universal Declaration of Human Rights and the 1966 International Covenant on Civil and Political Rights (ICCPR) protects freedom of expression, clarifying that “this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”
15. Article 13 of the Lebanese Constitution guarantees freedom of the press and freedom to express one's opinion orally or in writing within the limits established by law.
16. The Publications Law also guarantees “the freedom of the media, the printer, the publisher and the distributor.”¹⁴ Despite these guarantees, a number of articles across the Publications Law, Penal Code, and Military Justice Code restrict online freedom of

¹⁰ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Abid Hussain, submitted in accordance with Commission resolution 1999/36. Annex II, Principle 4; Limited scope of exceptions. Pg. 58.

¹¹ Cyrilla, Data Protection and Retention, E-Transactions Law 2018 <https://cyrilla.org/en/entity/vrlqtpwf7ss>

¹² Deborah Amos, NPR, 09/03/2020, ‘Lebanon's Government Is Accused Of Swarming WhatsApp To Catch Protesters’, <https://www.npr.org/2020/03/09/809684634/lebanons-government-is-accused-of-swarming-whatsapp-to-catch-protesters>

¹³ Freedom House, Freedom on the Net 2019, ‘Lebanon’, <https://freedomhouse.org/country/lebanon/freedom-net/2019>

¹⁴ SMEX, 2019, Analysing freedom of expression in Lebanon report 2018, https://smex.org/wp-content/uploads/2019/11/X_191125_FreeSpeechPostive_Report_EN_Interactive.pdf



expression in Lebanon. These laws broadly define a series of publication-related offenses as crimes, including defamation, false news, intimidation, publishing confidential documents, contempt for a recognized religion, hostility to public ethics or national or religious sentiments or national unity, and endangering Lebanon's foreign relations.

17. Article 384 of the Penal Code punishes those who insult the Lebanese president with between six months and two years in prison and a fine not exceeding LL400,000 (265 USD). Article 386 also states that any person who defames the Lebanese president faces between two months and two years in prison. Furthermore, the defendant does not have the opportunity to prove the truth of the published allegations. Even if the head of state drops the charges, the judge cannot dismiss the complaint, though they can reduce the sentence. Article 292 awards a similar punishment as Article 384 to anyone who insults foreign heads of state. According to the 1962 Publications Law, as amended by Article 23 of Decree No. 104 of 1977, members of publications that defame the president or foreign heads of state face between two months and two years in prison as well as a fine between LL50 million and LL100 million (\$33,079 to \$66,157), though the Publications Court rarely issues prison sentences.¹⁵
18. Powerful politicians regularly exploit the Publications Law and Penal Code to silence any criticism of themselves or their party. According to *Muhal*, Gebran Bassil, the former Minister of Foreign Affairs and the head of the Free Patriotic Movement, has filed 14 cases since 2016.¹⁶ The cases include instances where citizens questioned corruption within Bassil's parties, personal financial dealings, and the poor handling of the electricity crisis. Ironically, in one instance, Bassil filed a suit against a citizen who shared one of Bassil's tweets, where he tweeted "Arresting people for their tweets is outrageous."
19. Religious leaders also have taken advantage of the Publications Law and Penal Code to silence any criticism as blasphemy. According to *Muhal*, the Catholic Information Council filed 3 cases in 2018 alone.¹⁷ In one of the most prominent cases, the Cybercrime Bureau compelled the defendant to sign a pledge to stay off Facebook for one month after he made a sarcastic joke about St. Charbel, a Maronite saint in Lebanon.
20. In many cases where the security agencies detained citizens, the general prosecutor often forced the defendants to remove content or sign a pledge to refrain from posting on social media.¹⁸ Since 2017, security agencies have compelled individuals to delete "controversial" content in 14 instances and 43 of them have signed a pledge promising to refrain from posting or criticizing the government out of a total 147 cases.

¹⁵ ILO, Database of national labour, social security and related human rights legislation, 'Lebanon Penal Code' http://ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=89873&p_country=LBN&p_count=117

¹⁶ Muhal Observatory for Free Expression, Database, <https://muhal.org/>

¹⁷ Ibid

¹⁸ Civil Society Knowledge Centre, 'Crackdown on Social Media by Lebanese Authorities (En-Ar)', <https://civilsociety-centre.org/content/crackdown-social-media-lebanese-authorities-en-ar>



21. Since the protests began in October 2019, SMEX has recorded 39 cases where the government has restricted freedom online. Including a case in which the Free Patriotic Movement filed a suit against two prominent bloggers and media personalities, Gino Raidy and Dima Sadek, after Raidy criticized Aoun, the party's leader.¹⁹

Freedom of information and censorship of content

22. Article 5 of the Right to Access Information Law (2017) reads: “A) The following information cannot be accessed..., which includes state secrets, information on public and national security, and professional and commercial secrets; and B) The following documents cannot be viewed...”, which includes secret trials, minutes of secret sessions of parliament, cabinet decisions of a secret nature amongst other issues. This Article clearly contradicts international standards that allows exceptions only when a) the information requested relate to a legitimate aim listed in the law; b) disclosure threatens to cause substantial harm to that aim; c) the harm to the aim must be greater than the public interest in having the information. The wording “cannot” doesn't allow for administrations to apply this test.
23. Article 9 of the Right to Access Information law reads: “All documents mentioned in the previous article shall be published on the websites of the competent departments”. This Article sets an indirect positive obligation on administrations which is to have a website that is used to implement the obligation to publish information specified by law. Unfortunately, only a few administrations have websites, and fewer have updated platforms.
24. Some public administrations refuse to receive information requests,²⁰ others claim the law isn't enforce requiring an implementation decree²¹, which was proven wrong in a judgment by the Council of State (Administrative Court) and three opinions issued by the Legislative and Consultative Commission at the Ministry of Justice.²² Other administrations also stall their responses to information requests, and provide vague answers.²³
25. The absolute prohibition of access to various types of information, according to Article 5 of the law, without giving the administration the jurisdiction to make the information available or not when it falls under one of the exempted types of information is in violation of international standards. There is a contradiction of other laws with the object and purpose of the Access to Information Law. The bylaws of the Parliament²⁴ and the Decree Regulating the Acts of the Council of Ministers²⁵ gives these entities the absolute power to decide whether their sessions are confidential or not without specifying any

¹⁹ Almodon Online, 'جينو رعيدي للعونيين: تخلوا عن زعيمكم كما فعلت قبلكم', <https://bit.ly/2ZfvLLv>

²⁰ Almoghabat, Mohammad. “The Right to Access Information A Study on the Lebanese Government's Commitment to the Right to Access Information Law (No. 2017/28)”. Gherbal Initiative. Pg. 18.

²¹ Mehdi, Hussein, Merhej, Celine. “Transparency in Lebanese Public Administrations”. Gherbal Initiative. Pg. 8.

²² The three opinions can be accessed through “Gherbal Initiative's” Homepage website.

²³ See footnote 5.

²⁴ Articles 34 & 51 of the Lebanese Parliament's Bylaws.

²⁵ Articles 4(3), 9 & 17 of the Decree Regulating the Acts of the Council of Ministers.



criteria for secrecy.

26. As part of Lebanese government's effort to restrict LGBTQI rights over the years, in 2019 the Ministry of Telecommunications issued a decision partially blocking the app Grindr on some mobile networks on the grounds that it is used by gay, transgender, and nonbinary individuals.²⁶
27. Between 2014 and 2017, the Lebanese government shut down mobile internet access in Aarsal, a large town in northeastern Lebanon.²⁷ The government cited "security" on the basis that the militant group Hayat Tahrir al-Sham (HTS) had made incursions into the town. Nonetheless, the shutdown impacted over 160,000 people and the government provided no transparency about its implementation.

Right to Equal Access and Opportunity

28. The number of people with access to the internet in the country increased from 75.3 percent in 2016²⁸ to 78.2 percent in 2018, and the country has a large population of internet users compared to many other states in the region.²⁹ However, Lebanon's telecommunications infrastructure remains weak, constraining access. Leaders have signaled commitment to bringing about improvements to the country's information and communications technology (ICT) sector, including through the eventual introduction of fiber-optic infrastructure.
29. The internet remains relatively slow and expensive, with an average download speed of 6.75 Mbps on fixed broadband, though the average mobile speed is 40.07 Mbps.³⁰
30. The main barrier to access in Lebanon is the cost of internet services. Lebanon has the fourth most expensive mobile internet in the Middle East. The government owns Alfa and Touch, the only two telecommunications companies. OGERO, the state's fixed-line provider, controls a monopoly over internet service in the country.

Right to data protection and privacy on the internet

²⁶ Amnesty International, 29/05/2019, 'Lebanon: Ban on gay dating app Grindr a blow for sexual rights and freedom' <https://bit.ly/2ObEJmq>

²⁷ SMEX, 31/03.2019, 'Two Years of Collective Punishment: Mobile Data Remains Inaccessible to Aarsal Residents', <https://smex.org/two-years-of-collective-punishment-mobile-data-remains-inaccessible-to-aarsal-residents/>

²⁸ Internet Live Stats, 'Lebanon', <https://www.internetlivestats.com/internet-users/lebanon/>

²⁹ ITU, 2019, Measuring the Internet Society 2018, 'Lebanon', <https://www.itu.int/en/ITU-D/Statistics/Documents/publications/misr2018/MISR-2018-Vol-2-E.pdf>

³⁰ SMEX, 05/10/2018, 'Mobile internet speeds up the Arab countries, but fixed broadband lags behind', <https://smex.org/mobile-internet-speeds-up-arab-countries-but-fixed-broadband-lags-behind/>



- 31.** Although parliament adopted the Electronic Transactions and Personal Data Law³¹ (E-Transactions Law) in 2018, it fails to adequately protect digital privacy. The law offers vague privacy guidelines for corporations and institutions, but the law provides even less oversight for state agencies. Only one chapter of the law addresses the right to privacy, and it fails to concretely define key terms or establish a data protection authority with the power to uphold the law.
- 32.** The infringement of privacy rights in Lebanon goes beyond the remit of the E-Transactions Law; since March 2014, security agencies maintain access to citizens' call data and metadata through an agreement between the Council.³² Moreover, security agencies often do not obtain judicial orders when accessing detainees' electronic devices, further threatening marginalized individuals detained by the state.
- 33.** The E-Transactions Law (2018) provides vague and ambiguous terms and concentrates power in the executive branch. For example, Article 87 states “personal data shall be collected faithfully and for legitimate, specific, and explicit purposes,” which gives the ministries absolute jurisdiction to decide whether a license shall be granted or not and can act arbitrarily.
- 34.** Courts have also used illegally obtained evidence from victim's mobile phones in prominent cases. The Individual Penal Judge in Beirut has convicted three defendants for the offense of having “unnatural sexual intercourse”, based on Article 534 of the Lebanese Penal Code that reads “Any unnatural sexual intercourse is punishable by imprisonment of up to one year,” basing the decision on the confessions extracted under torture and the information extracted from the defendants' mobile phones without a judicial order. The Misdemeanors Court of Appeals in Beirut, appealed the judgment on the basis of infringement of privacy rights and insufficient evidence.³³
- 35.** Additionally, The E-Transactions Law transforms the Ministry of Economy and Trade into a data protection authority, instead of establishing an independent authority to oversee the implementation of the law.
- 36.** Article 97 gives the Ministry of Interior and Ministry of Defense “the power to award licenses for any data pertaining to “external and internal security of the state,” without defining the term. The same article “bestows authority on the Minister of Justice to issue licenses for data related to ‘judicial proceedings of various kinds’ and on the Minister of Health to make decisions in ‘cases of health, genetic identity, or sexual life of persons.’” Therefore, three ministries are given the power to oversee citizens' personal data with little to know oversight.
- 37.** The Election Law of 2017, requires that the Ministry of Foreign Affairs “publish and

³¹ Cyrilla, ‘Law No. 81 Relating to Electronic Transactions and Personal Data’, <https://cyrilla.org/en/entity/vrlqtpwf7ss>

³² SMEX, 18/12/2017, ‘A Brief History of Personal Data Collection in Lebanon’, <https://smex.org/a-brief-history-of-personal-data-collection-in-lebanon/>

³³ Ghida Frangieh, Legal Agenda, 28/05/2019, ‘Beirut Court of Appeal: Sexual Orientation is Not Punishable’, <https://legal-agenda.com/en/article.php?id=5429>



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circulate” lists of registered voters living abroad “using all available means” in order to confirm that the identity of the expatriates matches the information listed in the Personal Status Register. This has led the Embassies of Lebanon in both the UAE and The Netherlands to circulate sheets with all registered voters “identifying personal information” through emails to voters so they can confirm their identity.³⁴

38. The Ministry of Interior, during the parliamentary elections in 2018, published the personal information of all voters (every citizen above 21 years of age); including the full name of the voter, mother’s name, date of birth, personal number of the registry and religion.³⁵

³⁴ SMEX, 06/04/2018, ‘Lebanese Embassies Expose the Personal Data of Registered Voters Living Abroad’, <https://smex.org/lebanese-embassies-expose-the-personal-data-of-registered-voters-living-abroad/>

³⁵ *Ibid.*



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Proposed Recommendations

- 39.** In light of Lebanon's existing record on freedom of opinion and expression, freedom of the press, and the right to privacy online, the submitting organisations call on states to offer the following recommendations to Lebanon:
- a.** In compliance with international standards and the right to freedom of expression guaranteed under Article 19 of the ICCPR, guarantee the freedom of expression and opinion online as well as offline for media and individuals, by correcting articles related to defamation and libel criminalizing criticism of politicians and blasphemy.
 - b.** Revise the E-Transactions Law to bring it into line with international standards, update the new election law to prevent data-sharing between citizens and create a data protection authority independent from the executive branch.
 - c.** Courts to eliminate the practice of pretrial detention in freedom of expression cases.
 - d.** Amend Article 5 of the Access to Information Law and ensure stronger implementation of the law, to fully extend citizens' right to access information.